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09/982,457	10/17/2001	Johnson Jiahui Qin	CSCO-117728	7400

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EXAMINER

REILLY, SEAN M

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.	Applicant(s)	
	09/982,457	QIN, JOHNSON JIAHUI	
	Examiner	Art Unit	
	Sean Reilly	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on December 15, 2005. Claims 1-34 are presented for further examination. All independent claims have been amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 1. Claims 1, 7-8, 31, and 32-33, are rejected under 35 U.S.C. 102(b) as being anticipated by Command Antivirus Technical Support webpage, April 2000, hereinafter Command.**
- Note the Command reference has been applied to demonstrate that Applicant's claims do not require both the acts of 1) a software development scaleable distribution framework activity and 2) a commercial scaleable distribution framework activity since Applicant provides a nexus between the limitations using the conjunction **OR**. Further since Applicant uses IF clauses as opposed to positive recitations for performing the claimed activities (i.e. performing an internal process associated with a software project under development **OR** a commercial scaleable distribution framework activity) only one of the claimed activities must be present in any applied prior art reference. In the instant case the Command reference meets all aspects of Applicant's

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claimed invention since Command disclosed 1) authorizing and performing a commercial scaleable distribution framework activity and 2) **failed** to disclose authenticating or performing a software development scaleable distribution framework activity. Applicant is encouraged to rewrite the claim limitations using positive recitations.

3. With further regard to claims 1 and 31, Command disclosed an automated software distribution method comprising:

- receiving a request to access a software distribution system (e.g. the user clicks on the “File downloads section” of the website, see WWW Download Procedure, also see FTP Download procedure);
- determining if the requester is a registered user (i.e. during authentication determining if the user ID exists);
- if said requester is a registered user, determining if said registered user is authorized to perform either a software development scaleable distribution framework activity **OR** a commercial scaleable distribution framework activity (the download of antivirus software) (i.e. authenticating the user using the user ID and password combination);
- if said requester is authorized to perform said software development scaleable distribution framework activity, performing an internal process associated with a software project under development (Note: Command does not provide the functionality for performing a software development scaleable distribution framework activity. Thus, this IF statement is never true with regard to the Command reference).

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- If said requester is authorized to perform said commercial scaleable distribution framework activity, performing a scalable software distribution system commerce transaction (i.e. downloading the antivirus software; see pg 2, steps seven and eight);

4. With regard to claim 7, Command disclosed a scaleable software distribution system commerce transaction is engaged in an electronic commerce environment (i.e. the internet).

5. With regard to claim 8, Command disclosed a software transaction process is utilized (i.e. a file is downloaded).

6. With regard to claim 32, Command disclosed the request is received from an external user via the internet (see pg 1, Having trouble connecting or download).

7. With regard to claim 33, Command the user is able to access an internal storage of software products (i.e. accessing the web or FTP server containing the antivirus software).

8. **Claims 1-18 and 31-34, are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al. (U.S. Patent Number 5,892,900; hereinafter Ginter).**

9. Regarding claims 1 and 31, Ginter disclosed an automated software distribution method comprising:

- receiving a request to access a software distribution system (Col 315, lines 42-43);
- determining if the requester is a registered user (inherent for authenticating the user; Col 315, lines 43-50);
- if said requester is a registered user, determining if said registered user is authorized to perform either (see inter alia "Rules and Control" Col 56, line 65 – Col 58, line 49

and more specifically Col 57, lines 1-5 wherein specific users are authorized to perform various tasks associated with an object and Col 58, lines 30-36 wherein user requests are denied or granted based on object “rules and control”)

- i. a software development scaleable distribution framework activity (object modification restrictions for adding, modifying, or deleting software objects Col 285 line 65 - Col 286, line 48, including user restrictions, Col 286, lines 34-48; Note an object may be a software program since Ginter discloses the system is used distribute software products, Col 7, lines 48-54)
- ii. **OR**
- iii. a commercial scaleable software distribution framework activity (obtaining content; i.e. downloading a software program Col 316, lines 6-7; for authentication see Col 315, lines 42-44 and 59-62 and Col 316, lines 22);
- iv. if said requester is authorized to perform said software development scaleable distribution framework activity, performing an internal process associated with a software project under development (e.g. adding, modifying, or deleting software objects under development see Col 285 line 65 - Col 286, line 48)
- v. if said requester is authorized to perform said commercial scaleable distribution frame work activity, performing scaleable software distribution system commerce transaction (software download transaction; Col 316, lines 6-34);

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10. Regarding claim 2, Ginter discloses notifying said requester that access is not granted (Col 58, line 36; Col 315, line 44).

11. Regarding claim 3, Ginter discloses the request is received from an internal user via an internal LAN (Col 168, lines 10-15).

12. Regarding claim 4, Ginter discloses the request is received from an external user via the internet (Col 315, lines 26-28).

13. Regarding claim 5, Ginter discloses said internal process comprising allowing the user to access an internal storage of software products (Col 315, lines 59-63).

14. Regarding claim 6, Ginter discloses an internal user is able to download software code, make changes and upload the modified code (Col 285, line 65 – Col 286 line 39; Col 320, lines 43-46).

15. Regarding claim 7, Ginter discloses the transaction is engaged in an electronic commerce environment (Col 1, lines 17-20).

16. Regarding claim 8, Ginter discloses a software transaction process is utilized (Col 316, lines 6-34).

17. Regarding claim 9, Ginter discloses an internal software publishing process comprising: receiving a request to engage in software image publishing activities (adding content to an object, publishing a new program would consist of adding content to an empty object, Col 285, line 66 – Col 286 line 6; an object may be a software program since Ginter discloses the system can distribute software products, Col 7, lines 48-54); engaging in a data population process (inherent for object storage) in accordance with a scaleable software distribution framework (figure 5b) and object model in which objects are linked together (e.g. within a container, Col

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134, lines 10-67); checking information associated with a software project under development to ensure the requester has authorization to engage in software image publication activities (each object has predefined object modification restrictions, Col 286, lines 7-33; including user restrictions, Col 286, lines 34-48); receiving requisite supervisory authorization to proceed with the publication (object modification restrictions Col 286, lines 7-48); and executing a software publication (“published object”, Col 15, lines 52-57; objects added to the Ginter system are published based on the distribution restrictions specified).

18. Regarding claim 10, Ginter discloses the request is received from a software engineer (author) that has built a software image ready for commercial release (Col 7, lines 48-57).

19. Regarding claim 11, Ginter discloses the data population process includes a software distribution framework (SWDF) Information Model, SWDF Product Model and SWDF Packaging Model (Figure 5B).

20. Regarding claim 12, Ginter discloses the SWDF packing model is completed by pulling data from a database that includes features that map a software image and software product code (Col 59, lines 28-36).

21. Regarding claim 13, Ginter discloses SWDF authorization information is checked to make sure the requester has appropriate role risibility to engage in image publishing (Col 286, lines 7-33).

22. Regarding claim 14, Ginter discloses a commercial transaction process comprising: examining the commercial transaction rights of a requester (Col 316, lines 6-22); making a determination if the requester has entitlement to proceed with a commercial transaction (Col 316,

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lines 22-23); engaging in a commercial transaction entitlement process (Col 316, lines 6-34); investigating to determine if a Requester successfully completed a commercial transaction entitlement process (Col 316, lines 29-34); executing the Requested commercial transaction (Col 316, line 34).

23. Regarding claim 15, Ginter discloses the SWDF system stores information on the commercial transaction rights of external customers (Col 6, lines 43-67).

24. Regarding claim 16, Ginter discloses the SWDF system stores information the entitlements of external customers to engage in commercial transactions (Col 6, lines 43-67).

25. Regarding claim 17, Ginter discloses the SWDF Entitlement Information includes information on whether the customer has a service contract or paid money for the requested software product (Col 6, lines 43-67) and if the customer has entitlement (Col 316, line 22) to proceed the requested software product is downloaded (Col 316, line 34).

26. Regarding claim 18, Ginter discloses the commercial transaction process is an electronic commerce process (Col 1, lines 17-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter.

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28. Regarding claim 19, Examiner takes Official Notice that it was well known in the art at the time of invention that industry standard software products sold comprise software image binary executables, readme information, installation instructions, product manuals, guide and software requirements, and software release note, and software licensing key. It would have been obvious to one of ordinary skill in the art at the time of invention to include software image binary executables, readme information, installation instructions, product manuals, guide and software requirements, and software release note, and software licensing key within a software product distributed using Ginter's distribution system, in order to meet software product industry standards at the time of invention.

29. Claims 20-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al. (U.S. Patent Number 5,892,900; hereinafter Ginter) and Srivastava et al. (U.S. Patent Number 6,845,499; hereinafter Srivastava).

30. Regarding claim 20, Ginter discloses an automated software distribution system comprising:

- a means for determining if a user is entitled to perform either a software development activity **OR** a commercial activity (obtaining content; i.e. downloading a software program; Col 316, lines 6-7, for authentication see Col 315, lines 42-44 and 59-62 and Col 316, lines 22), wherein said software development activity or said commercial activity is accessible through said automated software distribution system (Col 315, lines 59-67).
- a means for communicating information associated with an automated software distribution method (Figure 8, Component 666);

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- a means for processing said information associated with an automated software distribution method (Figure 8, Component 654); and
- a means for storing and tracking said information associated with an automated software distribution method (Figure 8, Component 652) with a scalable software distribution framework (figure 5b) and object model in which objects are linked together (e.g. within a container, Col 134, lines 10-67).

Although Ginter disclosed the invention substantially as claimed, Ginter failed to specifically *recite* that objects are linked together by *unique* object identifiers. Nevertheless, it was well known in the art at the time of the invention to link objects together using unique identifiers, as evidenced by Srivastava. In an analogous art, Srivastava disclosed a software distribution system where objects (documents) are uniquely identified (Col 9, lines 65-67) and linked together (Col 10, lines 58-64). Srivastava further disclosed that uniquely identifying and linking objects together allows the relationships between objects to be readily determined (Col 10, lines 58-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Srivastava within Ginter's system, so the relationships between objects could be readily determined (Srivastava Col 10, lines 58-64).

31. Regarding claims 21, Ginter discloses the information associated with an automated software distribution method is organized in accordance with software distribution framework (SWDF) modules that manage the software distribution information and activities in accordance with SWDF models (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

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32. Regarding claim 22, Ginter discloses the information associated with an automated software distribution method is organized in accordance with software distribution framework (SWDF) database, wherein SWDF database schema components are configured in accordance with four categories comprising regular database tables, composite link database tables, associating link database tables and runtime information query components (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

33. Regarding claim 23, Ginter discloses the information associated with an automated software distribution method is tracked and manipulated by means for indicating classes, attributes and operations (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

34. Regarding claim 24, Ginter discloses a means for manage different areas of framework information including user information, authorization information, software information, configuration information, commerce information, publication information, and distribution information (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

35. Regarding claim 25, Ginter discloses a link database table is a persistent storage for the relationship of two objects (Col 134, lines 8-67).

36. Regarding claim 26, Ginter discloses an automated software distribution apparatus comprising: a bus for communicating information associated with a n automated software distribution method (Figure 8, Component 653); an input mechanism for receiving requests for access to said information (Figure 8, Component 654); a processor for processing said information associated with an automated software distribution method (Figure 8, Component 654); and a memory for storing and tracking said information associated with an automated

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software distribution method (Figure 8, Component 652) with a scaleable software distribution framework (figure 5b) and object model in which objects are linked together (e.g. within a container, Col 134, lines 10-67).

Although Ginter disclosed the invention substantially as claimed, Ginter failed to specifically *recite* that objects are linked together by *unique* object identifiers. Nevertheless, it was well known in the art at the time of the invention to link objects together using unique identifiers, as evidenced by Srivastava. In an analogous art, Srivastava disclosed a software distribution system where objects (documents) are uniquely identified (Col 9, lines 65-67) and linked together (Col 10, lines 58-64). Srivastava further disclosed that uniquely identifying and linking objects together allows the relationships between objects to be readily determined (Col 10, lines 58-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Srivastava within Ginter's system, so the relationships between objects could be readily determined (Srivastava Col 10, lines 58-64).

37. Regarding claim 27, Ginter discloses said bus is communicatively coupled to a communication network (Figure 8).

38. Regarding claim 28, Ginter discloses an automated software distribution method is implemented via said communications network (Col 315, lines 42-43).

39. Regarding claim 29, Srivastava disclosed an XML-based software distribution framework is utilized to enable automatic distribution of software over the Internet and WWW while coordinating, correlating and collecting information that assists software distribution management and maintenance activities (Col 11 line 60 – Col 12, line 16).

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40. Regarding claim 30, Ginter discloses software images are publish based on software rights associated with a business rule/responsibility model and software products are distributed to customers based on commerce model (Col 4, lines 14-68).

41. Regarding claims 31-34, the limitations of claims 31-34 are similarly drawn to the limitations of claims 1 and 4-6, respectively. Hence, claims 31-34 are rejected using similar rationale.

Response to Arguments

42. In response to Applicant's request for reconsideration filed on December 15, 2005, the following factual arguments are noted:

- a. Ginter failed to disclosed determining if a user is authorized to perform either a software development activity or a commercial activity.

In considering (a), Examiner respectfully disagrees with Applicant's argument.

Applicant asserts that Ginter failed to disclose determining 1) if a user is authorized to perform a software development activity and 2) if a user is authorized to perform a commercial activity.

Examiner respectfully disagrees. Foremost Examiner has equated *a software development activity* to adding and/or modifying a software object in Ginter's system (see inter alia Col 285, line 65 – Col 286, line 49). Additionally Examiner has equated *a commercial activity* to an “end user” downloading a software object in Ginter's system (see inter alia Col 315, line 43 – Col 316, line 34).

Ginter provides a system for both the development and distribution of numerous objects, including software programs (see inter alia Col 7, lines 48-67). Accordingly the users (participants) of Ginter's system perform numerous roles, such as developers that create and authorize the distribution of objects and "end users" who access the system to acquire objects (through download or other means) (see inter alia Role Description Col 279, line 62 – Col 281, line 22). All users of Ginter's system "have the innate ability to participate in any role" (Col 281, lines 23-44). However, no matter which role or capacity a user acts in, the user must be authorized to perform requested tasks associated with the respective role or capacity (see inter alia "Rules and Control" Col 56, line 65 – Col 58, line 49 and more specifically Col 57, lines 1-5 wherein specific users are authorized to perform various tasks associated with an object and Col 58, lines 30-36 wherein user requests are denied or granted based on object "rules and control"). Thus, Ginter clearly disclosed determining whether or not users are authorized to perform all tasks including *a software development activity or a commercial activity*.

Applicant also contends that Ginter does not disclose "a method in which a whole category of content, for example software development projects, is allowed or denied based upon the requesting user" (Applicant response pg 12, 2nd ¶). Whether or not Ginter's system allows or denies a whole category of content based upon the requesting user is irrelevant because such a limitation or equivalent thereof is not recited in the current claims. It is noted that Applicant merely claims A software development scaleable distribution framework activity or A commercial scaleable distribution frame work activity and not a category of content as asserted by Applicant.

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Conclusion

43. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.


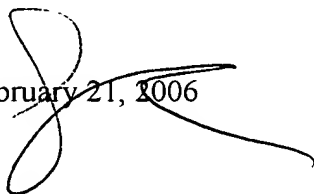
44. This office action is made **NON-FINAL**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 21, 2006



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